UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
--X
NEW ANGLE PET PRODUCTS, INC. and
ONE BASTROW PROPERTIES, INC.,

Plaintiffs,

-against-

ABSOLUTELY NEW, INC.,

Defendant.
--X

ORDER
CV 10-2700 (SJF)(ARL)

LINDSAY, Magistrate Judge:

Before the court is the plaintiffs' letter application dated January 11, 2012, seeking to compel post-judgment discovery from the defendant and sanctions for its failure to respond to the plaintiffs' requests. On April 19, 2011, District Judge Feuerstein entered a default judgment against the defendant in the amount of $67,100. On May 20, 2011, she denied the defendant's motion to vacate. In July, when the defendant had not paid the judgment, the plaintiffs served it with Interrogatories in Aid of Judgment. In September, counsel for the defendant responded that his client could not answer the interrogatories until a protective order was in place. Counsel for the parties negotiated the terms of a protective order by September 15th, but the defendant refused to execute the agreement.

In October, the plaintiffs moved to compel the defendant to respond to the post-judgment discovery. The defendant failed to respond to the motion and it was granted as unopposed. Upon receipt of the court's order, the defendant finally responded to the interrogatories. Unsatisfied with the responses, which contained numerous objections, the plaintiffs served the defendant with a Request for the Production of Documents. The defendant responded, in part, but has not produced the following: (1) its two most recent Federal and State tax returns; (2) its four most recent California wage reports; (3) "all agreements pursuant to which the defendant will or may receive payment at a future date:" (4) all communications between the defendant and its warehouses or storage facilities where the defendant maintains "product inventory;" and (5) the defendant's inventor-manufacturing-retailer database, marketing agreement receivables, and licencing agreement agent royalty receivables. The plaintiffs now seek to compel those documents.

Although the court could grant the motion based on the defendant's failure to respond to the application, the court will address the merits of the plaintiffs' requests. Post-judgment discovery is routinely conducted pursuant to Fed. R. Civ. P. 69. A judgment creditor is given wide latitude to use the discovery devices provided by the Federal Rules and the scope of discovery is broad. *See Libaire v. Kaplan,* 760 F. Supp. 2d 288, 293 (E.D.N.Y. 2011)(citing *Geryhound Exhibitgroup, Inc. V. E.L.U.L. Realty Corp.,* 1993 U.S. Dist. LEXIS 1929 (E.D.N.Y.

Feb. 23, 1993)). When a party argues that a request is overly broad or unduly burdensome, "the court is required to weigh the burden . . . against the value of the information to the serving party." *Id.* (citing *Ebbert v. Nassau County,* 2007 U.S. Dist. LEXIS 15159 (E.D.N.Y. Mar. 5, 2007)). The court must consider factors such as "relevance, the need for the documents, the breadth of the document request, the time period covered by it, the particularity with which the documents are described and the burden imposed." *Id.* Here, the request for wage reports and for any documents concerning the defendant's warehouses or storage facilities where it maintains product inventory are likely to contain information relevant to the defendant's assets and are sufficiently tailored. In addition, having failed to respond to the motion, the defendant has not offered an explanation as to why it thinks the requests are overly broad.

The request for all agreements pursuant to which the defendant will or may receive payment at a future date is also likely to be relevant but it contains no time restriction and should be limited to payments to be received in the next two years. With respect to the request for the defendant's inventor-manufacturing-retailer database, the defendant has already responded that the database does not contain any information concerning its assets and that response is sufficient. The defendant has also indicated that despite its characterization of the marketing agreement receivables and licencing agreement agent royalty receivables as "identifiable assets," the terms refer to "abstract accounting concepts" not to particular documents.

Finally, the request for tax returns is relevant to the enforcement of the plaintiffs' judgment against the defendants. Although "courts are typically reluctant to compel their disclosure because of both 'the private nature of the sensitive information contained therein' and 'the public interest in encouraging the filing by taxpayers of complete and accurate returns,'" here, the tax returns are relevant to the plaintiffs' enforcement of the judgment. *Id.* In addition, the information contained in the return is not readily obtainable especially given the defendant's lack of cooperation to date. *Id.*

In conclusion, the defendant must provide the plaintiffs with its two most recent Federal and State tax returns, its four most recent California wage reports, agreements pursuant to which it will or may receive payment in the next two years, and documents reflecting communications with its warehouses or storage facilities where it maintains "product inventory, by February 10, 2012. The request for sanctions is denied with leave to renew if the defendant fails to satisfy this order.

Dated: Central Islip, New York
January 24, 2012

SO ORDERED:

__________/s________________
ARLENE R. LINDSAY
United States Magistrate Judge